

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Mac Muir	Team: Squad #12	CCRB Case #: 201901085	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Saturday, 12/22/2018 3:15 PM	Location of Incident: § 87(2)(b)	Precinct: 109	18 Mo. SOL 6/22/2020	EO SOL 2/6/2021	
Date/Time CV Reported Wed, 02/06/2019 9:35 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 02/06/2019 9:35 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Richard Charles	03186	939991	NARCBQN
2. DT3 Christophe Haws	1280	953955	NARCBQN
3. LT Alexander Wancel	00000	935951	NARCBQN

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Richard Charles	Abuse: At § 87(2)(b) in Queens, Detective Richard Charles stopped § 87(2)(b)	§ 87(2)(b)
B.DT3 Christophe Haws	Abuse: § 87(2)(b) in Queens, Detective Christopher Haws stopped § 87(2)(b)	§ 87(2)(b)
C.LT Alexander Wancel	Abuse: At § 87(2)(b) in Queens, Lieutenant Alexander Wancel stopped § 87(2)(b)	§ 87(2)(b)
D.DT3 Richard Charles	Force: At § 87(2)(b) in Queens, Detective Richard Charles used physical force against § 87(2)(b)	§ 87(2)(b)
E.DT3 Christophe Haws	Force: At § 87(2)(b) in Queens, Detective Christopher Haws used physical force against § 87(2)(b)	§ 87(2)(b)
F.DT3 Richard Charles	Force: At § 87(2)(b) in Queens, Detective Richard Charles used physical force against § 87(2)(b)	§ 87(2)(b)
G.DT3 Christophe Haws	Force: At § 87(2)(b) in Queens, Detective Christopher Haws used physical force against § 87(2)(b)	§ 87(2)(b)
H.DT3 Richard Charles	Force: At § 87(2)(b) in Queens, Detective Richard Charles used physical force against § 87(2)(b)	§ 87(2)(b)
I.LT Alexander Wancel	Force: § 87(2)(b) in Queens, Lieutenant Alexander Wancel used physical force against § 87(2)(b)	§ 87(2)(b)
J.DT3 Christophe Haws	Abuse: At § 87(2)(b) in Queens, Detective Christopher Haws searched § 87(2)(b)	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
K.DT3 Christophe Haws	Abuse: § 87(2)(b) in Queens, Detective Christopher Haws arrested § 87(2)(b)	
L.LT Alexander Wancel	Abuse: At § 87(2)(b) in Queens, Lieutenant Alexander Wancel supervised the arrest of § 87(2)(b)	
M.LT Alexander Wancel	Abuse: At the 109th Precinct stationhouse, Lieutenant Alexander Wancel strip-searched § 87(2)(b)	
§ 87(4-b), § 87(2)(g)		

Case Summary

On February 6, 2019, this complaint was submitted by § 87(2)(b) via telephone. On February 21, 2019, § 87(2)(b)'s allegation that drugs were planted on him was spun-off to the Internal Affairs Bureau via Case #201901625.

At approximately 3:15 p.m. on December 22, 2018, § 87(2)(b) was in the hallway of the § 87(2)(b) in Queens. He had been in a verbal argument with his girlfriend, § 87(2)(b) when Detective Richard Charles and Detective Christopher Haws of Brooklyn North Narcotics approached. § 87(2)(b) attempted to enter his apartment, and Detective Charles and Detective Haws stopped him (**Allegation A: Stop:** § 87(2)(g) (**Allegation B: Stop:** § 87(2)(g) (**Allegation C: Stop:** § 87(2)(g) Detective Charles allegedly stopped § 87(2)(b) by punching him in the head (**Allegation D: Force:** § 87(2)(g) Detective Charles and Detective Haws grabbed § 87(2)(b) and pulled him away from his apartment door (**Allegation E: Force:** § 87(2)(g) (**Allegation F: Force:** § 87(2)(g) § 87(2)(b) then placed his hands into his shorts. Detective Haws grabbed § 87(2)(b) by the waist and pulled him to ground, and he, Detective Charles, and Lieutenant Wancel forced § 87(2)(b)'s hands out of his pants and placed him in handcuffs (**Allegation G: Force:** § 87(2)(g) (**Allegation H: Force:** § 87(2)(g) (**Allegation I: Force:** § 87(2)(g) While the officers were struggling with § 87(2)(b) Detective Haws allegedly reached into his pocket and placed a piece of paper inside (**Allegation J: Abuse of Authority:** § 87(2)(g) Detective Haws recovered a plastic twist with alleged cocaine residue.

Under the supervision of Lieutenant Wancel, § 87(2)(b) was arrested by Detective Haws and charged with resisting arrest, obstruction of governmental administration, and criminal possession of a controlled substance (**Allegation K: Abuse of Authority:** § 87(2)(g) (**Allegation L: Abuse of Authority:** § 87(2)(g) At the 109th Precinct stationhouse, Lieutenant Wancel authorized the strip-search of § 87(2)(b) (**Allegation M: Abuse of Authority:** § 87(2)(g)

§ 87(2)(b), § 87(2)(c) (impair contract awards or CBAs)

Brooklyn North Narcotics officers were not assigned body-worn cameras when this incident took place. The investigation did not obtain video footage of this incident.

Findings and Recommendations

Allegation A – Abuse of Authority: At § 87(2)(b) **in Queens, Detective Richard Charles stopped** § 87(2)(b)

Allegation B – Abuse of Authority: At § 87(2)(b) **in Queens, Detective Christopher Haws stopped** § 87(2)(b)

Allegation C – Abuse of Authority: At § 87(2)(b) **in Queens, Lieutenant Alexander Wancel stopped** § 87(2)(b)

§ 87(2)(b) provided a sworn statement on February 13, 2019 (Board Review 01), and a telephone statement on February 19, 2019 (Board Review 02). He stated that at approximately 2:45 p.m. on December 22, 2018, he had been inside of his apartment when his girlfriend,

§ 87(2)(b) arrived at the apartment as well. They had been arguing and he had not been picking up her calls. He did not want her to come into the apartment, so they stood outside of it. Neither of them were yelling and this was not a loud conversation. Over the course of half an hour, the volume of their conversation gradually increased, but he did not believe that their conversation was “too loud.” At approximately 3:15 p.m., § 87(2)(b) observed three individuals, who he later learned were police officers, standing at the end of his hallway. § 87(2)(b) did not see them. They were Detective Richard Charles, Detective Christopher Haws, and Lieutenant Alexander Wancel of Queens North Narcotics. § 87(2)(b) did not recognize these people and remained unaware that they were officers, so he invited § 87(2)(b) into his apartment by saying, “You could come in right now.” § 87(2)(b) took out his keys to open the apartment door. Detective Haws whispered something to Detective Charles, and § 87(2)(b) saw all three officers approach him and § 87(2)(b) placed his keys into the doorknob. None of the officers issued any instructions to § 87(2)(b). Detective Charles walked around § 87(2)(b) s right side, stood beside § 87(2)(b) stretched his arm outward, and punched § 87(2)(b) directly on the top of his head with a closed fist. Detective Charles’ knuckles struck the center of § 87(2)(b) s head and he fell to the ground. § 87(2)(b) believed that Detective Charles punched him in the head to prevent him from getting into his apartment. § 87(2)(b) had headaches following the incident, which stemmed from his being punched. He did not seek medical treatment for these headaches.

§ 87(2)(b) provided a telephone statement on April 18, 2019 (Board Review 03). She stated that when she and § 87(2)(b) were verbally arguing, they decided to go into § 87(2)(b) s apartment. Detective Haws, Detective Charles, and Lieutenant Wancel ran toward § 87(2)(b) without saying anything and did not identify themselves as detectives. § 87(2)(b) did not know that they were officers and believed that § 87(2)(b) was being “jumped.” § 87(2)(b) attempted to open his front door. The officers repeatedly said, “What are you doing?” Detective Haws grabbed § 87(2)(b) by the back of the shirt, as if attempting to lift him off of the ground. He pulled § 87(2)(b) backward from the door, pushed him forward, and then pulled him to the ground. It took approximately fifteen seconds to get § 87(2)(b) to the ground. As Detective Haws pulled § 87(2)(b) away from the door, § 87(2)(b) attempted to move back toward it as if he were trying to get inside his apartment. § 87(2)(b) was pulled to the ground face-first on the opposite side of the hallway from his apartment door. Detective Charles stood next to Detective Haws. Neither of them identified themselves as police officers. § 87(2)(b) s hands did not go into his pants or his pockets before he was taken to the ground.

Detective Haws was interviewed at the CCRB on March 22, 2019 (Board Review 04). He stated that he was conducting a vertical patrol § 87(2)(b) with Detective Charles and Lieutenant Wancel when he heard people arguing down the hallway from the elevator on the § 87(2)(b). Detective Haws and Detective Charles walked ahead of Lieutenant Wancel, who Detective Haws believed checked the stairwell instead of immediately going to the source of the argument. Detective Haws turned a corner in the hallway and observed § 87(2)(b) and § 87(2)(b). They were yelling at each other. There was no physical interaction between them and Detective Haws could not hear what they were talking about. § 87(2)(b) looked at Detective Haws, who was not sure if § 87(2)(b) could see him. § 87(2)(b) turned toward the door in front of him and tried to place the keys inside. Detective Haws approached § 87(2)(b) and said, “Police. Hold up here for a second.” Detective Haws stated that the reason § 87(2)(b) was

initially stopped was for investigative reasons, so that the officers could figure out what was happening. Specifically, they were investigating the nature of the dispute between § 87(2)(b) and § 87(2)(b). It appeared that § 87(2)(b) was trying to get away from the officers. When § 87(2)(b) turned toward the door and tried to get away from the officers, the situation “escalated.” Detective Charles approached § 87(2)(b) and placed his arm on § 87(2)(b)’s shoulder as if to spin him around. § 87(2)(b) did not spin around and continued to try to open the apartment door. Detective Haws walked up to § 87(2)(b) and grabbed one of his arms. § 87(2)(b) put his hands in his shorts almost immediately after the officers made contact with him. Detective Haws found this “kind of odd.” He did not know what § 87(2)(b) was reaching for or what he was doing with his hands. Both of his fists were clenched. He was not sure what was in § 87(2)(b)’s hand, stating, “It could be anything from contraband to a weapon.” He was concerned that there might be a weapon in § 87(2)(b)’s shorts. Lieutenant Wancel approached them. The three officers pressed § 87(2)(b) against a wall and attempted to restrain him. § 87(2)(b) fought against the officers. Detective Haws saw that § 87(2)(b) had his keys in one hand. He did not know what was in § 87(2)(b)’s other hand. Lieutenant Wancel and Detective Charles grabbed § 87(2)(b)’s arms, trying to pull § 87(2)(b)’s hands out of his shorts and behind his back. § 87(2)(b) did not speak. § 87(2)(b) said, “Dre, just listen to them. They’re police.” Lt. Wancel and Detective Charles were able to get § 87(2)(b)’s hands from outside of his shorts but were not able to place him in handcuffs. Detective Haws grabbed § 87(2)(b) from around the hips and pulled him to the ground. Detective Haws denied that Detective Charles hit § 87(2)(b) in the head. He denied that any officer had physical contact with § 87(2)(b)’s head during this incident.

Detective Charles was interviewed at the CCRB on March 27, 2019 (Board Review 05). His statement was generally consistent with that of Detective Haws. He stated that when he first observed § 87(2)(b) and § 87(2)(b) their yelling, combined with the visual experience of seeing them, led him to believe that § 87(2)(b) might be “beating up his girlfriend.” He did not observe any physical contact between them. His concern that there was a domestic incident was based on his previous training as an officer. He was trained in how to respond to a domestic incident and had been trained to separate both parties and speak to them individually. However, if it became “a chaotic situation” they (the officers) would “probably” find out “who was the aggressor” and “bring them back” and then interview the victim, “primarily the female,” and have her complete a witness form. § 87(2)(b)’s facial expressions indicated that she was “upset,” “angry,” “distraught,” and “crying.” He specified that she was “teary-eyed” and “a little bit red in the face.” Detective Charles walked toward § 87(2)(b) and said either, “Hey. Police. How you doing? I need to talk to you,” or, “Police. Don’t move.” At this point, Detective Charles was “...just conducting an investigation to see what was going on.” He described this as a “general inquiry to ask § 87(2)(b) questions.” To do this, the officers “...were stopping him.” During his CCRB interview, Detective Charles was asked what crime he suspected § 87(2)(b) had committed. Detective Charles replied, “Assault and domestic violence incident... that’s it, possible assault.” Detective Charles did not suspect § 87(2)(b) of any other crime. Detective Charles was asked whether § 87(2)(b)’s hands were in his pockets when he first observed him. He replied, “Possibly.” However, Detective Charles also stated that when § 87(2)(b) saw him, he took keys out of his pocket and attempted to open the front door with the same keys. Detective Charles also stated that when he said, “I need to talk to you,” § 87(2)(b) placed his hands into his pockets and refused to take them out. Later in his CCRB interview, Detective Charles stated

that when he said, “I need to talk to you,” § 87(2)(b) turned away from him. In response to § 87(2)(b) turning away, Detective Charles placed his hand onto § 87(2)(b)’s shoulder. He was the first officer to touch § 87(2)(b). Detective Charles did not remember which of § 87(2)(b)’s shoulders he grabbed. § 87(2)(b) was “...trying to be evasive and run in the apartment.” Detective Charles grabbed § 87(2)(b)’s forearm and while still holding his shoulder, and pulled § 87(2)(b) toward his body, away from the apartment door. § 87(2)(b) placed his hands, with his keys in one hand, into closed fists. Then he placed his fists into either his pants pockets or his hoodie pocket. Detective Charles felt that this was “not normal.” During his CCRB interview, Detective Charles stated that there was something inside of § 87(2)(b)’s closed fist. He was asked how he knew that § 87(2)(b) had something in his closed fist. He replied, “Basically I didn’t really know, listen, at the end of the day, when a police officer or anyone asks, listen, let me see your hands, common courtesy would be like, listen, I’ll open my hands to the officers.” Detective Charles added that he did not know if § 87(2)(b) had a weapon, contraband, or anything that could hurt him. Detective Charles and the other officers repeatedly told § 87(2)(b) to take his hands out of his pockets and to place his hands behind his back. Because § 87(2)(b) did not take his hands out of his pockets, Detective Charles began to pull § 87(2)(b)’s hands to place into handcuffs. He was going to place § 87(2)(b) into handcuffs for the officers’ safety because he was being “combative and evasive.” However, as § 87(2)(b) continued to prevent himself from being handcuffed and did not respond to numerous commands to put his hands behind his back, he was under arrest. Detective Haws wrapped his arms around § 87(2)(b) and took him down to the ground with his body weight. The two of them fell to the ground.

Lieutenant Wancel was interviewed at the CCRB on March 22, 2019 (Board Review 06). He stated that although he heard the verbal dispute that lead to officers approaching § 87(2)(b) and § 87(2)(b) he did not witness the stop itself. Instead of turning the corner toward § 87(2)(b) and § 87(2)(b) following Detective Haws and Detective Charles, Lieutenant Wancel looked into doorway that led to a stairwell to ensure that the officers’ “backs were covered.” He entered the stairwell, looked around briefly, exited the stairwell, and continued down the hallway. When he turned to continue toward § 87(2)(b) and § 87(2)(b) he observed Detective Haws and Detective Charles holding § 87(2)(b) by the arms. § 87(2)(b)’s hands were clenched. One of the officers yelled, “Boss, he’s got something in his waistband.” Later in his CCRB interview, Lt. Wancel stated that the officers said, “Boss, his hands are in his pants, his hands are in his pants.” Lt. Wancel observed that both of § 87(2)(b)’s hands were tucked into his shorts. At that moment, Lt. Wancel’s only concern was ensuring that § 87(2)(b)’s hands were out of his pants, and he did not have all of the facts to decide whether he was going to arrest § 87(2)(b). Detective Haws and Detective Charles appeared to be trying to remove § 87(2)(b)’s hands from his shorts. Fearing that he may have had a weapon, Lt. Wancel ran over and tried to remove his arms from inside his pants. § 87(2)(b) continued to fail to cooperate with the officers’ instructions. Lt. Wancel fell to the ground with Detective Haws and § 87(2)(b). Lt. Wancel could not recall whether the officers intentionally took him to the ground or whether they all fell due to the struggle.

According to Arrest #§ 87(2)(b) (Board Review 07), which was generated by Detective Haws, § 87(2)(b) was arrested for resisting arrest, obstruction of governmental administration, and criminal possession of a controlled substance in the 7th degree. The narrative of the arrest states, “At [time and place of occurrence], defendant did refuse to comply with lawful order and resisted

arrest. Defendant did continue to flail arms and forcefully refused to place hands behind back after numerous verbal commands from officers. Upon further investigation defendant did possess a plastic twist with alleged cocaine residue. Strip search authorized by Lt Wancel (§ 87(2)(b)) with negative results. DIR prepared. TRI prepared.”

According to the Criminal Court Complaint for this arrest (Board Review 08), which was prepared by Detective Haws, he heard the sound of a man and a woman arguing when he and Detective Charles walked toward them and identified themselves as police officers. § 87(2)(b) turned away from the officers, toward his apartment door, holding an unknown object in his hand. Detective Haws and Detective Charles repeatedly asked § 87(2)(b) to turn around, but he did not reply. Detective Haws then informed § 87(2)(b) that he was going to be placed under arrest. When he attempted to place § 87(2)(b) in handcuffs, § 87(2)(b) refused to place his hands behind his back, flailed his arms, twisted his body, kicked his legs, pushed and pulled against Detective Haws in an attempt to avoid being handcuffed. While he was attempting to handcuff § 87(2)(b) a twist containing a quantity of cocaine fell to the floor and was recovered by Lieutenant Wancel. Detective Haws’ conclusion was that this substance was cocaine, based on his experience as a police officer and in his training in the identification and packaging of controlled substances and marijuana.

According to Voucher #§ 87(2)(b) (Board Review 09), which was generated by Detective Haws, Lieutenant Wancel recovered a beige/tan plastic twist containing cocaine residue. Lieutenant Wancel was the supervisor who approved this voucher.

A request for all Domestic Incident Reports regarding § 87(2)(b) did not yield any results relating to this incident (Board Review 09).

On February 28, 2019, § 87(2)(b) pleaded guilty to disorderly conduct regarding this incident (Board Review 22).

It is undisputed that Detective Haws and Detective Charles stopped § 87(2)(b). Detective Haws, Detective Charles, and Lieutenant Wancel stated that Lieutenant Wancel was in the stairwell when Detective Charles and Haws initially stopped § 87(2)(b) and § 87(2)(b) stated that Lieutenant Wancel was with the detectives when they stopped § 87(2)(b). Without additional information, the investigation was unable to determine whether Lieutenant Wancel was with Detectives Haws and Charles when they made the decision to stop § 87(2)(b).

It is undisputed that the officers did not witness § 87(2)(b) and § 87(2)(b) touch, let alone strike each other. It is undisputed that § 87(2)(b) did not appear to be injured at any point during this incident. In addition, § 87(2)(b) was not charged with any offenses concerning his interaction with § 87(2)(b) only with charges related to his refusal to submit to the stop, and contraband found after the apprehension.

According to People v. Debour, 40 N.Y.2d 210 (1976) (Board Review 10), a person is considered to have been stopped when police action results in a “significant interruption [of the] individual’s liberty of movement.” In order to stop a person there must exist at that moment a founded suspicion that the person has committed, is committing, or is about to commit a crime. In

addition, officers may not justify a stop by a subsequently acquired suspicion resulting from a stop.

According to Patrol Guide Procedure 212-11 (Board Review 11), a ‘Terry Stop/Level 3 encounter’ is any encounter between a civilian and a uniformed member of service in which a reliable person would not feel free to disregard the officer and walk away. A stop may be conducted only when a police officer has an individualized reasonable suspicion that the person stopped has committed, is committing, or is about to commit a felony or Penal Law misdemeanor. Reasonable suspicion would exist when the information known to the member of service would make an ordinarily prudent and cautious police officer under the circumstances believe that a felony or Penal Law misdemeanor has been, is being or is about to be committed.

Penal Law 120.00 (Board Review 13) defines assault in the third degree as when “with intent to cause physical injury to another person, he causes such injury to such person or to a third person...recklessly causes physical injury to another person...[or] with criminal negligence, he causes physical injury to another person by means of a deadly weapon or dangerous instrument.

It is undisputed that the officers stopped § 87(2)(b) [REDACTED]. For this stop to be justified under People v. Debour and Patrol Guide Procedure 212-01, the officers would have needed a founded or reasonable suspicion that § 87(2)(b) [REDACTED] had committed, was committing, or was about to commit a crime. Detective Haws stated that § 87(2)(b) [REDACTED] was stopped so that officers could investigate the nature of the dispute between § 87(2)(b) [REDACTED] and § 87(2)(b) [REDACTED] and Detective Charles stated that the officers “...were stopping § 87(2)(b) [REDACTED] as a “general inquiry to ask § 87(2)(b) [REDACTED] questions.” Regardless of what the officers called their actions, the decision to grab § 87(2)(b) [REDACTED] prevented him from leaving, and was a stop under the law.

By Detective Charles’ account, he stopped § 87(2)(b) [REDACTED] for investigative reasons based upon his belief that § 87(2)(b) [REDACTED] was “beating up his girlfriend.” However, this belief was based only on § 87(2)(b) [REDACTED]’s facial expressions, her apparent sadness, and her apparent anger. As stated above, someone has committed assault when they intentionally physically injure another person. Consequently, the investigation determined that Detective Charles stopped § 87(2)(b) [REDACTED] without founded suspicion he had been or was committing assault.

Detective Haws stated that the reason § 87(2)(b) [REDACTED] was initially stopped was so that the officers could figure out what was happening between he and § 87(2)(b) [REDACTED]. Implicit in this reason is the fact that the officers did not know what was happening. He did not articulate a concern that § 87(2)(b) [REDACTED] had committed a specific crime, nor did he articulate an individualized suspicion that § 87(2)(b) [REDACTED] had committed, was committing, or was about to commit a felony or Penal Law misdemeanor as per Patrol Guide Procedure 212-01.

§ 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Allegation D – Force: At § 87(2)(b) in Queens, Detective Richard Charles used physical force against § 87(2)(b)

As stated above, § 87(2)(b) alleged that this stop began with Detective Charles punching him on the top of his head. He stated that he did not obtain medical attention but suffered headaches in the aftermath of the incident.

§ 87(2)(g)

Allegation E – Force: At § 87(2)(b) in Queens, Detective Christopher Haws used physical force against § 87(2)(b)

Allegation F – Force: At § 87(2)(b) in Queens, Detective Richard Charles used physical force against § 87(2)(b)

It is undisputed that Detective Haws and Detective Charles used physical force to bring § 87(2)(b) to the ground. However, each party provided a differing account of how this happened.

§ 87(2)(b) alleged that after he was punched in the head, with his keys still in the apartment door, he fell to the ground. Detective Haws and Detective Charles attempted to force him further to the ground by pinning him down. He did still did not know that they were police officers. When Detective Charles withdrew a pair of handcuffs and Detective Haws withdrew a badge, he understood that they were officers. § 87(2)(b) tried not to be arrested because he did not know what he was being arrested for. He twisted his chest and body to prevent himself from being handcuffed. Lieutenant Wancel stood next to § 87(2)(b) as if “watching [the other officers’] backs. § 87(2)(b) struggled with the officers for one to one and a half minutes as they attempted to place him in handcuffs and force him to the ground. § 87(2)(b) repeatedly asked why he was being arrested. Detective Haws repeatedly said that the reason he was being arrested was because he was resisting. § 87(2)(b) asked what he was resisting. Detective Haws and Detective Charles grabbed § 87(2)(b) s arms and pulled them toward his back, and they placed him into handcuffs.

§ 87(2)(b) stated that when § 87(2)(b) went to open his apartment door, he was holding a set of keys in his right hand and a phone in his left hand. She stated that Detective Haws first grabbed § 87(2)(b) by the back of the shirt, as if attempting to lift him off the ground. As Detective Haws pulled § 87(2)(b) away from the door, § 87(2)(b) attempted to move back toward it, as if he were trying to get inside. He repeatedly said that this was his own home. Neither Detective Charles nor Detective Haws identified themselves as police officers and § 87(2)(b) believed that § 87(2)(b) was being “jumped.” Detective Haws pulled § 87(2)(b) backward from the door, pushed him, and then pulled him to the ground. It took approximately fifteen seconds to get § 87(2)(b) to the ground.

Detective Haws stated that when § 87(2)(b) was trying to get into his apartment, Detective Charles grabbed § 87(2)(b) s shoulder and attempted to spin him around. Detective Haws walked up to § 87(2)(b) and grabbed one of his arms. § 87(2)(b) clenched his fists and put his hands in his shorts. Detective Haws found this “kind of odd.” He did not know what § 87(2)(b)

was reaching for or what he was doing with his hands. He was not sure what was in § 87(2)(b)'s hand, stating, "It could be anything from contraband to a weapon." Detective Haws, Detective Charles and Lieutenant Wancel then attempted to pull § 87(2)(b)'s hands out of his pants. After approximately one minute, Detective Haws wrapped his hands around § 87(2)(b)'s hips and pulled him to the ground. The reason force was used was to place § 87(2)(b) in handcuffs. As force was used, the officers were still conducting an investigatory stop and were trying to figure out what was happening.

Detective Charles' stated that to prevent § 87(2)(b) from turning toward his apartment, he placed his hand on § 87(2)(b)'s shoulder, grabbed § 87(2)(b)'s forearm, and pulled § 87(2)(b) toward his own body, away from the apartment door. § 87(2)(b) then placed his fists into either his pants pockets or his hoodie pocket, Detective Charles felt that this was "not normal." When asked what was in § 87(2)(b)'s fist he replied, "Basically I didn't really know. Listen, at the end of the day, when a police officer or anyone asks, listen, 'Let me see your hands,' common courtesy would be like, 'Listen, I'll open my hands to the officers.'" Detective Charles did not know if § 87(2)(b) had a weapon, contraband, or anything that could hurt him. Detective Charles and the other officers repeatedly told § 87(2)(b) to take his hands out of his pockets and to place his hands behind his back. Because § 87(2)(b) did not take his hands out of his pockets, Detective Charles began to pull § 87(2)(b)'s hands to place into handcuffs. He was going to place § 87(2)(b) into handcuffs for the officers' safety because he was being "combative and evasive." However, as § 87(2)(b) continued to prevent himself from being handcuffed and did not respond to numerous commands to put his hands behind his back, he was under arrest. Detective Haws wrapped his arms around § 87(2)(b) and the two of them fell to the ground. Detective Haws hugged § 87(2)(b) on the ground and tried to remove his hands from his pockets at the same time. § 87(2)(b) kept his hands in his pockets and hid his hands underneath his body. Lt. Wancel and Detective Charles grabbed § 87(2)(b)'s hands and attempted to pull them behind his back. Handcuffing § 87(2)(b) took five to ten minutes because he continued to keep his hands in his pockets. Detective Charles believed that either he or Lt. Wancel finally placed § 87(2)(b) in handcuffs.

Lieutenant Wancel stated that when he exited the stairwell and turned to see § 87(2)(b) Detective Charles and Detective Haws were already holding § 87(2)(b) by the arms. § 87(2)(b)'s hands were tucked into his shorts. Detective Haws and Detective Charles appeared to be trying to remove § 87(2)(b)'s hands from his shorts. Fearing that he may have had a weapon, Lieutenant Wancel ran over and tried to remove § 87(2)(b)'s arms from inside his pants. § 87(2)(b) refused numerous orders to take his hands out of his pants and place his hands behind his back. Lieutenant Wancel approximated that § 87(2)(b)'s hands were in his pants for between thirty seconds to a minute, although it felt like longer. He added that this was a long time for a struggle to last. As § 87(2)(b) continued to resist, Lt. Wancel fell to the ground with Detective Haws and § 87(2)(b). Lt. Wancel could not recall whether the officers intentionally took him to the ground or whether they fell due to the struggle. After "a long time," the officers brought § 87(2)(b)'s arms behind his back and placed him into handcuffs. It took so long because § 87(2)(b) was not cooperating and was not "easing up."

The Threat, Resistance, and Injury Reports completed by Detective Haws, Detective Charles, and Lieutenant Wancel (Board Review 14) each state that they used force and a forcible takedown to

defend themselves, to defend another officer, to stop a fleeing suspect, and to overcome resistance.

According to Arrest #§ 87(2)(b) (Board Review 07), in the process of arresting § 87(2)(b) officers used force, including a forcible take down, to overcome resistance and aggression.

Between the statements of § 87(2)(b) and Detective Charles, the investigation established by a preponderance of the evidence that Detective Charles and Detective Haws grabbed § 87(2)(b) and struggled to pull him away from his apartment door. After § 87(2)(b) struggled to get into his apartment, he placed his hands into his shorts.

According to Patrol Guide Procedure 221-01 (Board Review 15), officers may use force when it is reasonable to ensure the safety of a member of service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In all circumstances, any application of force must be reasonable under the circumstances.

§ 87(2)(g)
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§ 87(2)(g)

Allegation G – Force: At § 87(2)(b) in Queens, Detective Christopher Haws used physical force against § 87(2)(b)

Allegation H – Force: At § 87(2)(b) in Queens, Detective Richard Charles used physical force against § 87(2)(b)

Allegation I – Force: Lieutenant Alexander Wancel used physical force against § 87(2)(b)

It is undisputed that after Detective Haws and Detective Charles struggled to pull § 87(2)(b) away from his apartment door, § 87(2)(b) placed his hands into his pants. Detective Haws, Detective Charles, and Lieutenant Wancel then grabbed his hands and took him to the ground, and then placed him into handcuffs.

§ 87(2)(g)
§ 87(2)(g)

§ 87(2)(b) stated that § 87(2)(b) was holding his keys and his cellphone when he was initially stopped and taken to the ground. Then he placed his hands into his pants. The officers said that he was holding his “balls” and they repeatedly asked him why he was holding his “balls.” § 87(2)(b) believed that § 87(2)(b)'s hands were on his genitals because his shorts partially fell while he was on the ground. She also believed that he was holding his phone after it fell out of his pocket, and that he was grabbing his genitals solely because the officers were hitting him.

Detective Charles, Detective Haws, and Lieutenant Wancel each stated that they used force to place § 87(2)(b) into handcuffs because he was resisting, and because he had placed his pants into his shorts, which Detective Haws found to be “kind of odd” and which they all noted was an action that may have reflected that he had a weapon.

Patrol Guide Procedure 212-11 (Board Review 11) states that even if an officer does not have a reasonable suspicion that a person is armed and dangerous, they may instruct an individual to take their hands out of their pockets, and, if circumstances suggest the person may be grabbing a weapon, forcibly remove their hands from their pockets.

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Allegation J: Abuse of Authority: A § 87(2)(b) **in Queens, Detective Christopher Haws searched** § 87(2)(b)

§ 87(2)(b) alleged that while he was struggling to prevent the officers from handcuffing him, Detective Haws reached into his left pocket and pulled out what looked like a quarter-sized ripped off part of a sandwich bag. Detective Haws said, “Oh look what you got.” § 87(2)(b) replied that it was not his. Detective Haws replied that it contained cocaine. During his CCRB interview, § 87(2)(b) stated that the alleged cocaine was not his and was never in his possession before that moment.

Detective Haws denied placing his hand into § 87(2)(b)'s pocket before he was in handcuffs. In addition, he stated that he did not recover the alleged cocaine. He stated that Lieutenant Wancel told him that he had found it, and then showed Detective Haws a plastic twist that was consistent with the packaging of drug paraphernalia.

Lieutenant Wancel denied that any officer searched § 87(2)(b)'s pockets before he was placed into handcuffs. He stated that when § 87(2)(b) was lifted from the ground in handcuffs, he observed a small piece of paper that looked like “a twist” fall from his pantleg. Lt. Wancel picked it up. It was brown and the ends were wrinkled up, indicating that at one point it had been twisted up to make “a sack” to hold narcotics. Regarding the twist, Lt. Wancel said, “There was nothing there. At the same time, the floor was quite dirty there, and I’m not scouring the tenth floor looking for whatever may have fallen out of it.” Lt. Wancel felt that after such a long altercation, for his own safety and the safety of the other officers, they needed to leave the hallway as soon as possible so as not to agitate anyone in the building. He felt it was not normal for a piece of paper like this to fall out of someone’s pants. § 87(2)(b) was not asked what this item was and he did not make any statements about it. The twist was preserved as evidence.

Detective Charles denied that any officer went into § 87(2)(b)'s pockets before he was placed into handcuffs.

§ 87(2)(b) stated that she observed Detective Haws pick up a piece of “rolling paper” in front of § 87(2)(b)'s front door and claimed that it belonged to § 87(2)(b). § 87(2)(b) never personally observed the item that Detective Haws claimed belonged to him.

According to Voucher #§ 87(2)(b) (Board Review 09), which was generated by Detective Haws, Lieutenant Wancel recovered a beige/tan plastic twist containing cocaine residue. Lieutenant Wancel was the supervisor who approved this voucher.

According to the Criminal Court Complaint for this arrest (Board Review 08), which was prepared by Detective Haws, while he was attempting to handcuff § 87(2)(b) a twist containing a quantity of cocaine fell to the floor. Lieutenant Wancel informed Detective Haws that he had recovered this twist. Detective Haws' conclusion was that this substance was cocaine, based on his experience as a police officer and in his “training in the identification and packaging of controlled substances and marijuana.”

§ 87(2)(g)
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§ 87(2)(g)

Allegation K: Abuse of Authority: At § 87(2)(b) in Queens, Lieutenant Alexander Wancel supervised the arrest of § 87(2)(b)

Allegation L: Abuse of Authority: At § 87(2)(b) in Queens, Detective Christopher Haws arrested § 87(2)(b)

According to Arrest #§ 87(2)(b) (Board Review 07), and the Criminal Court Complaint (Board Review 08) associated with it, § 87(2)(b) was arrested for resisting arrest, obstruction of governmental administration, and criminal possession of a controlled substance in the 7th degree. The narrative of the arrest states, “At [time and place of occurrence], defendant did refuse to comply with lawful order and resisted arrest. Defendant did continue to flail arms and forcefully refused to place hands behind back after numerous verbal commands from officers. Upon further investigation defendant did possess a plastic twist with alleged cocaine residue.”

It is undisputed between Detective Charles and Detective Haws that § 87(2)(b) was arrested for struggling against the officers when they attempted to stop him from entering his apartment, and that the plastic twist with alleged cocaine residue was obtained after § 87(2)(b) was in handcuffs.

It is undisputed between the officers that the plastic twist was recovered after § 87(2)(b) stopped resisting arrest.

§ 87(2)(g)

None of the police documents generated regarding § 87(2)(b)'s arrest indicated that he was committing disorderly conduct at the time of the incident.

As stated above, § 87(2)(b) pleaded guilty to disorderly conduct regarding this incident. The disposition was subsequently sealed pursuant to Criminal Procedure Law §160.55 (Board Review 22).

According to People v. Tiger, 32 N.Y. 3d 91 (2018) (Board Review 28), a defendant can plead guilty to a nonexistent or legally impossible offense in satisfaction of an indictment that charges a higher offense.

According to Patrol Guide Procedure 208-01 (Board Review 16), in order to arrest an individual, an officer must have reasonable cause to believe that they have committed an offense.

According to Penal Law §205.30 (Board Review 17), an individual is resisting arrest when they intentionally prevent a police officer from effecting an authorized arrest of himself or another person.

According to People v. Peacock, 68 N.Y. 2d 675 (1986) (Board Review 29), a person cannot be guilty of resisting arrest if there is no probable cause that authorized the defendant's arrest.

According to Penal Law §195.05 (Board Review 18), a person is guilty of obstructing governmental administration when he intentionally obstructions, impairs, or perverts that administration of law or governmental function or prevents or a public servant from performing an official function by means of physical force.

According to People v. Lasko, 43 Misc. 2d 69 (1964) (Board Review 26) (Board Review 27), a conviction under Penal Law §195.05 will not lie where the arrest is unlawful.

People v. Peacock and People v. Lasko respectively note a person cannot be found guilty of resisting arrest or obstruction of governmental administration when the resistance and obstruction are of an unlawful arrest.

While the investigation noted that § 87(2)(b) pleaded guilty to disorderly conduct, People v. Tiger cites the fact that a defendant's guilty plea can be nonexistent or legally impossible, in satisfaction of an indictment that charges a higher offense. Because the detectives did not allege that § 87(2)(b) committed disorderly conduct during this incident, the investigation determined

that his guilty plea, as in People v. Tiger, remained apart from the facts of what occurred when he was arrested.

§ 87(2)(g)

Allegation M: Abuse of Authority: At the 109th Precinct stationhouse, Lieutenant Alexander Wancel strip-searched § 87(2)(b)

§ 87(2)(b) alleged that he was strip-searched at the 109th Precinct stationhouse by Detective Charles and Detective Haws. This is undisputed. As stated above, the investigation credited that § 87(2)(b) placed his hands into his shorts after his initial struggle with Detective Haws and Detective Charles. According to the 109th Precinct Command Log (Board Review 19), a strip-search of § 87(2)(b) was conducted at 4:00 p.m. on December 22, 2019.

According to the officers' testimony and Voucher #§ 87(2)(b) (Board Review 09), drugs were recovered from § 87(2)(b).

Lieutenant Wancel stated that he authorized the strip-search of § 87(2)(b) because he wanted to make sure that there were no narcotics in his underwear or anywhere else on his person. He also strip-searched § 87(2)(b) to make sure that he was not concealing a weapon. Lt. Wancel was particularly suspicious that § 87(2)(b) had contraband because he placed his hands in his pants and alleged drug paraphernalia fell out of his pant leg.

Detective Haws stated that he strip-searched § 87(2)(b) at the direction of Lieutenant Wancel because the officers thought that § 87(2)(b) was hiding something in his shorts.

Detective Charles stated that he strip-searched § 87(2)(b) to make sure that there was no firearm or additional contraband on his person. During his CCRB interview, Detective Charles explained that as a narcotics officer, he often saw people place narcotics in their "rear end." Detective Charles did not have any specific reason to believe that § 87(2)(b) had a firearm. He believed that § 87(2)(b) could have been in possession of narcotics based on his resistance of the arrest. He had no other reason to believe that § 87(2)(b) had narcotics. Generally speaking, when he knew someone had a prior arrest history, or if the person was subject of a narcotics arrest, they would often be strip-searched. He approximated that five out of ten people would be strip-searched because on their prior arrest history and their general demeanor. Detective Charles had found in the past that people who were concealing drugs were more often combative beforehand. During his CCRB interview, Detective Charles clarified that did not know anything about § 87(2)(b) or his criminal history before or after the strip-search.

According to Patrol Guide Procedure 208-05 (Board Review 20), a strip-search may not be conducted routinely in connection with an arrest. Strip searches must be conducted with approval of the arresting officer's supervisor, and only when the arresting officer reasonably suspects that weapons, contraband, and evidence may be concealed in such a manner not discovered by previous search methods.

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 21).
- Lieutenant Wancel has been a member-of-service for fifteen years and has been a subject of twenty-six allegations in fifteen complaints. None of the allegations have been substantiated.
- Detective Charles has been a member-of-service for thirteen years and has been a subject of sixty CCRB allegations in twenty-three complaints. None of the allegations have been substantiated.
- Detective Haws has been a member-of-service for six years and has been a subject of five CCRB allegations in two complaints. Two allegations were substantiated.
 - In CCRB Case #201608018, an allegation of Abuse of Authority – Vehicle Search, and Abuse of Authority – Seizure of Property, were substantiated against

Detective Haws. In that case, the board recommended the discipline of Command Discipline A, which was ultimately implemented by the NYPD.

Mediation, Civil and Criminal Histories

- This case was not eligible for mediation because § 87(2)(b) was arrested.
 - § 87(2)(a) 160.50 [REDACTED]
[REDACTED]
[REDACTED]
 - § 87(2)(b), § 87(2)(c) (impair contract awards or CBAs) [REDACTED]
[REDACTED]
 - According to the New York City Comptroller's Office, as of July 22, 2019, no Notice of Claim has been filed in this case (Board Review 23).
 - According to Sergeant Brian Farrell of the Internal Affairs Bureau (IAB), IAB unfounded the allegation that Detective Haws planted drugs onto § 87(2)(b) and exonerated the force used against § 87(2)(b)
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Squad 12

Investigator:	_____	_____	_____
	Signature	Print Title & Name	Date

Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date